

REMARKS

This is in reply to the non-final Office Action mailed December 20, 2000. Reconsideration and reexamination are respectfully requested in view of the foregoing amendments and the following remarks.

Original claims 1-10 and added claims 10-12 were pending in this reissue application. By way of the present amendment, Applicants have amended claim 10 and has added new claim 13. Therefore, claims 1-13 are presently pending for further consideration.

Support for the added features to step (b) of claim 10 may be found in Figure 1; Figure 3; column 5, lines 4-7; and column 3, lines 44-47 of the '819 patent. Support for the added features to step (c) of claim 10 may be found in Figure 1; Figure 4; column 4, lines 11-18; and column 5, lines 13-31 of the '819 patent. Support for the added features to step (d) of claim 10 may be found in Figure 1; and column 4, lines 20-23 of the '819 patent. Support for the features in new claim 13 may be found in Figure 1; and column 3, lines 44-47.

Applicants appreciate the indication of allowable subject matter made in the Office Action with respect to claims 5 and 6.

Offer to Surrender

The Office Action states that the original ribboned copy of the patent must be received before the reissue application can be allowed, and that an affidavit or declaration as to loss or inaccessibility of the original patent must be filed if that is the case.

Applicants will attempt to obtain the original ribboned copy of the copy, and if found, will be surrendered to the PTO. If not found, an affidavit or declaration will

be filed with the PTO.

In any event, in accordance with M.P.E.P. Section 1416, this should not affect the prosecution of this reissue application.

Oath/Declaration

The Office Action states that the oath or declaration is defective. The reasons are set forth on page 2 of the Office Action (numbered section 2).

A substitute oath is being submitted with this reply and amendment, which corrects the defects in the declaration filed with the reissue application. Examiner Grant's guidance, as provided to Applicants' representative, Phillip Articola, during an Examiner Interview conducted on February 22, 2001, is greatly appreciated.

Rejection of Claims 10-12 Under 35 U.S.C. Section 251 As Being Improperly Broadened In a Reissue Application Made and Sworn to by the Assignee and Not the Patentee

Claims 10-12 were rejected under 35 U.S.C. Section 251 as being improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. As explained to Examiner Grant by applicants' representative, Phillip Articola, during the Examiner Interview conducted on February 22, 2001, this rejection is in error.

The relevant portion of 35 U.S.C. § 251 is provided below:

The provisions of this title relating to applications for patent shall be applicable to applications for reissue of a patent, except that application for reissue may be made and sworn to by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent.

As is clear from the above portion of Section 251,

this rejection is inapplicable to this case. First, the Oath is signed by the inventors, not by the assignee. Second, this reissue application does seek to enlarge the scope of the claims of the original patent. Therefore, since the inventors have signed the Oath and not the Assignee, this reissue application is fully compliant with this portion of 35 U.S.C. § 251.

Rejection of Claims 10-12 Under 35 U.S.C. § 251 As Being an Improper Recapture of Claimed Subject Matter Deliberately Canceled in the Application for the Patent Upon Which the Present Reissue is Based

The Office Action rejects claims 10-12 are being an improper recapture of claimed subject matter deliberately canceled in the application for the patent upon which the present reissue application is based. As explained to Examiner Grant during the Examiner Interview conducted on February 22, 2001, this is not the case. Applicants' representative, Phillip Articola, provided Examiner Grant with a copy of the file history of the parent application, which clearly shows that no such recapture is being made. In fact, the claims were not narrowed in any way during prosecution of the parent application. As is clear from the file history provided to Examiner Grant during the Examiner Interview conducted on February 22, 2001, the amendments to claims 1 and 8 in the parent case were extremely minor in nature, and did not narrow the claims in any way. In fact, they probably broadened the claims somewhat.

In a first Office Action in the parent application, which included prior art rejections very similar to the prior art rejections made in the Office Action being replied to by way of this reply and amendment, applicants' representative added two claims 11, 12, which corresponded to "objected to" claims 5 and 6 being placed in independent

form. This was done so that those claims would be in condition for allowance, irrespective as to the other claims.

Applicants' representative also provided Remarks as to why the other claims were distinguished over the prior art. Those Remarks were persuasive, since Examiner Grant eventually allowed all of the claims, with only minor, non-substantive amendments being made by way of an Examiner's Amendment.

However, since originally-filed claims 5 and 6 were still in the application, Examiner Grant called applicants' representative, in order to obtain permission to cancel claims 11 and 12, since those claims were duplicative of claims 5 and 6 in scope. This permission was granted, and the case passed to allowance.

Thus, as is clear from the above, no recapture issue is at stake here. Therefore, applicants have the right to prosecute broader claims than those allowed in the parent application, as is being done here.

Claim Rejection - 35 U.S.C. § 103(a)

Claims 10 and 12 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,463,656 to Polivka et al. in view of U.S. Patent No. 5,289,272 to Rabowsky et al. Claims 1, 2, 4, 7 and 11 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,463,656 to Polivka et al. and Rabowsky et al., and further in view of U.S. Patent No. 5,495,258 to Muhlhauser. Claim 3 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Polivka et al., Rabowsky et al., and Muhlhauser, and further in view of U.S. Patent No. 4,866,515 to Tagawa et al. Claims 8, 9 and 12 were rejected under 35 U.S.C. § 103(a) as allegedly

being unpatentable over Polivka et al., Rabowsky et al., and Muhlhauser. These rejections are traversed for at least the reasons given below.

As an initial matter, it is noted that the rejections of claims 1-4 and 7-10 are very similar to the rejection of these claims as made in a first Office Action mailed February 15, 1997, in the parent application (that eventually matured into U.S. Patent No. 5, 760,819). In that regard, please refer to the comments provided in a Reply filed May 6, 1997, which was provided to Examiner Grant by applicants' representative, Phillip Articola, during an Examiner Interview conducted on February 22, 2001. Those comments were persuasive in obtaining allowability of claims 1-10 at that time, and it is believed that those comments are equally applicable at this time with respect to claims 1-10, which were not amended in this reissue application. During that Examiner Interview, Examiner Grant indicated that the portion of the parent's file history provided to him by Phillip Articola, would be made of record in this application.

The following comments provides additional reasons for patentability of the presently pending claims 1-12.

In Polivka et al., his receiver 280-1 provides a demuxed signal, as an output of his receiver 280-1, to his control processor 270 (the alleged antenna control means). In the present invention, however, the antenna control means downconverts encoded RF signals provided by the antenna, to provide encoded left hand and right hand circularly polarized RF signals, whereby these encoded left hand and right hand circularly polarized RF signals are then provided, as an output of the antenna control means, to the receiver. Thus, unlike Polivka which has his receiver 280-1 positioned communicatively between his antennas 265R, 266R and his antenna controller (control

processor 270), as shown in Figures 3A and 6 of Polivka, the present invention as recited in claim 10 has the antenna controller positioned communicatively between the antenna and the receiver. See, for example, the positioning of antenna 11, antenna interface unit 12, and receiver 13 in Figure 1 of the drawings.

In other words, the antenna controller of claim 10 does not receive downconverted signals so as to use those signals to steer an antenna, but rather it processes status signals (not downconverted signals) derived from the antenna to steer the antenna. This is a major distinction, since Polivka must include some time delay in the downconverting of signals output from the antennas 265R, 266R, prior to those downconverted signals being used by a control processor 270 to steer the antenna. This time delay may cause inaccurate positioning of the antennas. On the other hand, the antenna control means of the present invention (as recited in claim 10) provides much greater active control of the antenna, since it uses the raw output from the antenna in order to steer the antenna, and thus does not wait for output from the receiver to provide such steering.

Thus, since none of the other cited art of record make up for this deficiency in Polivka et al., claim 10, as well as its dependent claim 11, are patentable.

With respect to both independent claim 1, independent claim 10 (providing an extra argument as to the patentability of claim 10, with respect to the argument provided above), and independent claim 12, please refer to the comments provided below.

Rabowsky et al. shows a disassembly and selector circuit in Figure 3 of that reference, which may be disposed at each seat or a group of seats in an aircraft. However, that circuit does not include a decoder in the

manner recited in claims 1, 10 and 12. In particular, Rabowsky et al.'s disassembly and selector circuit has an RF demodulator 116, a demultiplexer 120, decompression circuitry 130, 131, and D/A's 132, 133. The Office Action equates Rabowsky et al.'s optional decompression circuitry 130, 131 as corresponding to the claimed decoder, but this is incorrect. In Rabowsky et al., the optional decompression circuitry 130, 131 are utilized if optional compression circuitry 90, 92, as shown in Figure 2 of Rabowsky et al., are used to compress the audio and video channels within the aircraft. That is, in Rabowsky et al., encoded RF signals are not received by an antenna (as output by a satellite), but rather one or more entertainment video or audio signals 12, 13, originating in the aircraft (such as from VCRs housed in the aircraft), are combined and are optionally encoded. The disassembly and selector circuit of Figure 3 of Rabowsky et al. then must decompress the compressed video and audio signals, before providing them to a user at a passenger's seat in an aircraft.

Therefore, since none of the other cited art of record make up for the above-mentioned deficiencies in Rabowsky et al., independent claims 1, 10 and 12, as well as their respective dependent claims, are patentable for this reason.

#### New Claim 13

New claim 13 has been added to recite an additional feature of the steering of the antenna, which is based on unmodulated RF signals output from the antenna. As is clear from the teachings of Polivka et al., that reference first modulates the antenna output, by way of "despreading PSK demodulator" element 238 in Figure 2B of that reference, before demuxing that signal, and then eventually providing

Serial No. 08/584,477

it to a control processor 210, to be used to steer the antennas. No such demodulating or demuxing occurs in the antenna steering process of claim 13.

Conclusion

In view of the foregoing, it is respectfully submitted that the pending claims are patentable and that the present application is in condition for allowance.

Respectfully submitted,

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